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10/774,030

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David G. Hille

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EXAMINER

TYLER, NATHAN K

ART UNIT

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2625

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/774,030	<b>Applicant(s)</b> HILLE ET AL.	
	<b>Examiner</b> Nathan K. Tyler	<b>Art Unit</b> 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>05022004, 23042007</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Suggestions*

1. The word “wherein” is repeated twice at lines 1 and 2 of claim 6. The Examiner suggests removing the repetition.

### *Claim Objections - 37 CFR 1.75(a)*

2. The following is a quotation of 37 CFR 1.75(a):

The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery.

3. Claims 7, 16, and 19 are objected to under 37 CFR 1.75(a), as failing to particularly point out and distinctly claim the subject matter which application regards as his invention or discovery.

Regarding **claim 7**, the term “the expansion port” at line 3 lacks an antecedent basis. However, it appears from the context of the claim when read in light of the specification that the limitation of an “expansion port” should be introduced in claim 7 prior to the introduction of the “fax test module,” similar to claim 3, and so the following will be assumed for examination purposes:

From:

“power circuitry based on power supplied by battery;  
a fax test module connected to the expansion port, the fax test module including:”

To:

- - power circuitry based on power supplied by battery;  
an expansion port;  
a fax test module connected to the expansion port, the fax test module  
including: - -

Regarding **claims 16 and 19**, the use of the identical term “the following performed before sending the fax” renders claims 16 and 19 indistinguishable from one another. It appears from the context of the claims when read in light of the specification that claim 16 should read:

- - the following performed before sending the fax from the DUT to the diagnostic tool -

and claim 19 should read :

- - the following performed before sending the fax from the diagnostic tool to the DUT - -

and this will be assumed for examination purposes.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Sage Instruments (925VST VoP Service Tester User's Manual Version 1.2) and Johnson, Jr. et al. (US 6603569 B1), and further in view of Meyer (US 5396342 A).

Regarding **claim 1**, Sage discloses a telephone connector (figure on page 31, "RJ48"), a fax modem module (page 6 shows "The fax emulator test operates with a standard facsimile machine." This fax emulator is a fax modem module); a display (cover page shows display); and, a processor that causes menus to be shown on the display (Page 14, under "Interfaces" heading: "To access the Interfaces screens, from the Main Menu press the 2 key to display the Setup menu..."), the menus allowing a user to select tests to be performed on a device under test (Page 32, "Running Tests" heading: "Use the [up] or [down] keys to scroll through the Test Select screens until the desired test displays..."), the tests including a send fax test (Page 36, "FAXTX" test, display shows "Transmit FAX"); wherein the menus list devices that can be tested by the diagnostic tool (Page 17, "Phone Lists" heading: "The phone list contains the phone numbers to farend responders that the 925VST calls to conduct tests."); and wherein the menus

list at least one device that does not have fax capability and at least one device that does have fax capability (The phone list stores numbers of devices to test. These numbers could be devices with fax capability (fax machines) or numbers without fax capability (standard telephone set)).

Sage does not disclose a phone line emulator or a receive fax test.

Johnson discloses a facsimile transmission system with a phone line emulator (Fig. 4, numeral 412 "Line Emulator." "The line emulator provides line current, dial-tone, ring signals, and busy signals typically furnished by a telephone network central office." At column 5, line 45).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the fax test system disclosed by Sage with the phone line emulator disclosed by Johnson so that the device under test could be tested without connecting through a telephone line provided by a central office ("The line emulator provides line current, dial-tone, ring signals, and busy signals typically furnished by a telephone network central office." At column 5, line 45).

The combination of Sage and Johnson does not disclose a receive fax test.

Meyer discloses a facsimile testing system that is capable of both a send fax test and a receive fax test ("By providing a system that sends and receive fax messages like an ordinary fax transceiver but also can make and process measurements while it is doing so..." at column 3, line 16).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the fax test system disclosed by the combination of Sage and Johnson with a receive fax test as taught by Meyer, so that the fax test system could test the ability of the device under test to transmit as well as receive faxes.

Regarding **claim 2**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that the menus additionally include a select test menu (Sage, page 32, "Running Tests" heading: "Use the [up] or [down] keys to scroll through the Test Select screens until the desired test displays...") and a select product menu (Sage page 14, "Test Interface" heading: "Use the Interfaces screens to select the type of line to be tested").

Regarding **claim 3**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses an expansion port (Sage, page 15 "Serial Port" heading: "Use the optional 925VST serial port (RS-232) cable..."); a fax test module connected to the expansion port (the fax test module disclosed by Sage is connected to the serial (expansion) port), the fax test module including a telephone connector (see grounds for rejection for claim 1), a fax modem module (see grounds for rejection for claim 1), and a phone line emulator (see grounds for rejection for claim 1); a display (see grounds for rejection for claim 1); and, a processor that causes menus to be shown on the display, the menus allowing a user to select tests to be performed on a device under test, the tests including a send fax test, and a receive fax test (see grounds for rejection for claim 1).

Regarding **claim 4**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that the menus include a select product menu and a select test menu (see grounds for rejection for claim 2).

Regarding **claim 5**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that the menus include a select category menu (Sage, page 14, "Interfaces" display screen used to select which category of line, <test interface> lines (products) or Serial Port), a

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select product menu (see grounds for rejection for claim 2) and a select test menu (see grounds for rejection for claim 2).

Regarding **claim 6**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that the menus list devices that can be tested by the diagnostic tool (see grounds for rejection for claim 1); and the menus list at least one device that does not have fax capability and at least one device that does have fax capability (see grounds for rejection for claim 1).

Regarding **claim 7**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses power circuitry based on power supplied by battery (Sage, page 9, "Initial Charge" heading: "The 925VST comes with rechargeable batteries installed at the factory."); an expansion port (see grounds for rejection for claim 3); a fax test module connected to the expansion port (see grounds for rejection for claim 3), the fax test module including a telephone connector, a fax modem module, and a phone line emulator; a display; and, a processor that causes menus to be shown on the display, the menus allowing a user to select tests to be performed on a device under test, the tests including a send fax test, and a receive fax test (see grounds for rejection for claim 1).

Regarding **claim 8**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that the menus include a select product menu and a select test menu (see grounds for rejection for claim 2).

Regarding **claim 9**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that the menus include a select category menu, a select product menu and a select test menu (see grounds for rejection for claim 5).

Regarding **claim 10**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that the menus list devices that can be tested by the diagnostic tool (see grounds for rejection for claim 1); and the menus list at least one device that does not have fax capability and at least one device that does have fax capability (see grounds for rejection for claim 1).

Regarding **claim 11**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses a method for testing a device under test (DUT) comprising connecting a cable from the DUT to a diagnostic tool (Sage, page 31, "RJ Connections" heading: "Use the supplied cords to connect the 925VST to the line being tested); and, sending a fax from the diagnostic tool to the DUT (Sage, page 36, "FAXTX" display shows fax has been successfully transmitted from the diagnostic tool to the DUT), including the following: emulating, by the diagnostic device over the cable, a phone line to the DUT ("The line emulator provides line current, dial-tone, ring signals, and busy signals typically furnished by a telephone network central office." At Johnson column 5, line 45), performing fax transmission of data from the diagnostic tool to the DUT (Sage, page 36, "FAXTX" display shows fax has been successfully transmitted from the diagnostic tool to the DUT), and terminating the fax transmission ("Transmit FAX Passed" shown on the display signifies that the test has been completed correctly, therefore the transmission has ended).

Regarding **claim 12**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that emulating the phone line includes producing an alert signal ("The line emulator provides line current, dial-tone, ring signals, and busy signals..." At Johnson column 5, line 45).

Regarding **claim 13**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses the following performed before sending the fax: selecting by a user the device under

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test from a plurality of devices listed on a menu by the diagnostic tool (Sage, page 32, "Running Tests" heading: "Use the [up] or [down] keys to locate the desired responder (far end) phone number), the plurality of devices including at least one device that does not have fax capability and at least one device that does have fax capability (see grounds for rejection for claim 1).

Regarding **claim 14**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses a method for testing a device under test (DUT) comprising connecting a cable from the DUT to a diagnostic tool (see grounds for rejection for claim 11); and, sending a fax from the DUT to the diagnostic tool ("In one mode of operation, the user initiates a test by automatically transmitting a sample document, such as a cover page or test chart to a special fax telephone number where the test system is located" at Meyer column 3, line 28), including the following: emulating, by the diagnostic device over the cable, a phone line to the DUT (see grounds for rejection for claim 11), performing fax transmission of data from the DUT to the diagnostic tool ("In one mode of operation, the user initiates a test by automatically transmitting a sample document, such as a cover page or test chart to a special fax telephone number where the test system is located" at Meyer column 3, line 28), and terminating the fax transmission ("The system analyzes the measurements and prepares a test report, which is then immediately delivered to the caller by fax message" at Meyer column 3, line 35. In order for the system to send the report back to the DUT, the original fax transmission must have been terminated).

Regarding **claim 15**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that emulating the phone line includes producing a dial tone ("The line emulator provides line current, dial-tone..." At Johnson column 5, line 45); and receiving a dialed number

(“The line emulator 412 also decodes DTMF tones and traps the corresponding digits dialed by local fax machine 102” at Johnson column 5, line 47).

Regarding **claim 16**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses the following performed before sending the fax from the DUT to the diagnostic tool: selecting by a user the device under test from a plurality of devices listed on a menu by the diagnostic tool, the plurality of devices including at least one device that does not have fax capability and at least one device that does have fax capability (see grounds for rejection for claim 13).

Regarding **claim 17**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses sending a fax from the diagnostic tool to the DUT, including the following emulating again, by the diagnostic device, a phone line to the DUT, performing fax transmission of data from the diagnostic tool to the DUT, and terminating the fax transmission (see grounds for rejection for claim 11).

Regarding **claim 18**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses that emulating again the phone line includes producing an alert signal (see grounds for rejection for claim 12).

Regarding **claim 19**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses the following performed before sending the fax from the diagnostic tool to the DUT: selecting by a user the device under test from a plurality of devices listed on a menu by the diagnostic tool, the plurality of devices including at least one device that does not have fax capability and at least one device that does have fax capability (see grounds for rejection for claim 13).

Regarding **claim 20**, the combination of Sage, Johnson, and Meyer as applied to claim 1 discloses a module means for sending and receiving fax (Sage page 6 shows “The fax emulator test operates with a standard facsimile machine.” See grounds for rejection for claim 1), the module means including: connector means for providing a telephone connection (figure on Sage page 31, “RJ48”), fax means for producing and receiving fax transmissions (see grounds for rejection for claim 1), and emulator means for emulating a phone line (see grounds for rejection for claim 1); display means for displaying menus to a user (see grounds for rejection for claim 1); and, processing means for controlling display of the menus by the display means (see grounds for rejection for claim 1), the menus allowing the user to select tests to be performed on a device under test, the tests including: a send fax test, and a receive fax test (see grounds for rejection for claim 1); wherein the menus list devices that can be tested by the diagnostic tool (see grounds for rejection for claim 1); wherein the menus list at least one device that does not have fax capability and at least one device that does have fax capability (see grounds for rejection for claim 1).


### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan K. Tyler whose telephone number is 571-270-1584. The examiner can normally be reached on M-F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, King Poon can be reached on 571-272-7440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan K Tyler  
Examiner  
Art Unit 2625

  
KING Y. POON  
PRIMARY EXAMINER  
*Supervising Patent*